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OGC Has Reviewed

27 May 1954

MEMORANDUM FOR: DD/P-ADMIN

SUBJECT : Determination of Dependency of Grandchildren

REFERENCE : a. Your memorandum dated 24 May 1954, same subject  
b. Memorandum from DC/EE/Admin. to COA-DD/P dated 21 May 1954, same subject

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1. This memorandum is in confirmation of oral advice previously given that Mr. [ ] two minor grandchildren should not be considered dependents either for travel purposes or for establishing the quantum of a separation allowance. The reason for our opinion is one of definition.

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2. [ ] paragraph 2.b., defines five categories of individuals closely related to the employee who may be considered dependents. Grandchildren fall in none of these categories and, hence, must by negative implication not be regarded as dependents. This, of course, is irrespective of the factual situation which here obtains, since, as you point out, Mr. [ ] has for some considerable time been claiming his grandchildren as exemptions for income tax purposes and providing their total support. Their qualification as dependents for tax purposes, of course, cannot be considered qualification for travel purposes where the standards are prescribed by wholly different statute and regulation. This is not to be construed as meaning that the Agency could not legally authorize grandchildren to be regarded as dependents for travel purposes; it is simply to state that under present regulations they are excluded.

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3. Turning to the matter of the separation allowance, Section 261.1 of the Standardized Regulations (Government Civilians, Foreign Areas) defines the family of an individual who qualifies for receipt of a separation allowance as including only a wife and unmarried minor children. Children may be either adopted or step-children. Here, again, by inescapable negative implication grandchildren cannot be considered. This limitation upon the authorization of a separation allowance is founded in a regulation having Government-wide application and is, hence, not subject to alteration by this Agency in an individual situation.

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Office of General Counsel